D.B. CIVIL SPECIAL APPEAL(W)NO.212/2006

Rajasthan State Road Transport Corporation & ors.
Vs.
Madugiri & Anr.

Date of Judgment :: 11-10-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri B.S. Bhati, for the appellants.
Shri Vijay Mehta, for the respondents.

The dispute in this appeal relates to the claim for pension. The respondents, erstwhile employees of the Rajasthan State Road Transport Corporation (for short 'Corporation') filed writ petition seeking direction in that regard. The petition was disposed of in the following terms:

> "Accordingly this petition for writ is disposed of with a direction to the respondent Rajasthan State Road Transport Corporation to accept the option submitted by the petitioners with regard to grant of pension and then the same be allowed to them by deducting the amount of excess provident fund with interest which is said to be granted earlier. The respondent Corporation shall complete all formalities with regard to grant of pension and deduction of excess provident fund amount said to be paid to the petitioners within a period of four months from the date the petitioners submit a certified copy of this order to the respondent no.3 along with a representation for acceptance of pension in terms of this order."

It is not in dispute that employees of the Corporation were earlier governed by the Provident Fund Scheme in terms of which both the Corporation and the employees used to contribute their respective share. On retirement the amount was to be paid to the employees with interest accrued on the deposit. The Pension Scheme titled Rajasthan State Road Transport Corporation Employees Pension Regulations, 1989 came into force from 1.4.1989. The Regulations provide for payment of pension. They contain an option clause in terms of which the employees can retain the amount due on account of provident fund contributions or opt for pension. In that case, they are required to deposit the amount comprising the employer's share with interest accrued from time to time in lump sum . The relevant provision runs as follows:

> "In case any employee or his nominee obtains the final refund of CPF between 1st April, 1989 and specified period for exercising option, the employer's share with accrued interest from time to time shall have to be deposited in lump sum before granting the option for pension."

The respondents who retired from service respectively on 31.1.1992 and 31.1.1991 exercised their option in favour of pension scheme though beyond the stipulated period of 90 days as prescribed in Regulation 27 of the Pension Regulations. The Corporation declined to grant the

benefit of pension on the ground that the respondents should first deposit the amount of employer's share of provident fund contribution with interest in lump sum. The learned Single Judge, as seen above, allowed the Corporation to deduct the amount which the respondents are liable to refund. We find no error in the order.

It is true that going by the words of the Regulations, the employee is required to “deposit” the amount of employer's share but as the respondents are entitled to pension from the dates of their superannuation i.e. 31.1.1992 and 31.1.1991 respectively, the amount due as pension must be much more than the amount which the respondents are liable to deposit i.e. refund; the Corporation therefore can adjust the amount which the respondents are required to deposit. No doubt while allowing the benefit of pension, the Corporation is entitled to process the application and verify the claim and we do not wish to interfere with the same. We would simply clarify that the Corporation cannot insist on prior deposit of the amount which the respondents have already received being employer's share of provident fund contribution before processing their claim of grant of pension. On such verification of the claim, whatever amount is found due from the respondents, to be deposited as the employer's share of provident fund contribution, may

be adjusted against the amount which is to be paid as arrears of pension for the period from 31.1.1992 and 31.1.1991 in the case of the two respondents respectively. After such adjustment is made, rest of the arrears may be paid to the respondents. We allow three months time to complete the process.

With these observations and direction, the appeal is dismissed.

[MOHAMMAD RAFIQ],J. [S.N.JHA],CJ.

Praveen